



Ordinance Number 541

AN ORDINANCE PROHIBITING SMOKING OR THE USE OF TOBACCO PRODUCTS IN CERTAIN AREAS OF THE TOWN

Sponsored By: 4th District Councilman Charles McKewen

First and Second Reading:
August 11, 2011

Results: Passed 5 In Favor, 1 Opposed with 1 Absent

Third and Final Reading:
September 08, 2011

Results: Passed 5 In Favor, 1 Opposed with 1 Absent

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AN ORDINANCE PROHIBITING SMOKING OR THE USE OF TOBACCO PRODUCTS IN CERTAIN AREAS OF THE TOWN

WHEREAS, the Mayor and Council through its exercise of powers has a responsibility to promote the general health, public safety, and general welfare; and

WHEREAS, the Town's parks and public areas are intended for the healthy enjoyment of all its citizens, including children and youth; and

WHEREAS, the Mayor and Council find that smoking and tobacco use in parks and other public areas has resulted in litter of cigarette butts, cigar butts, and other tobacco related waste, which studies have shown can cause environmental degradation and pose a health risk to children and animals; and

WHEREAS, there are concerns and studies that have shown that smoking and tobacco use, including second hand smoke has been linked with the development of lung cancer, heart attack, low birth weight, bronchitis, pneumonia, asthma, chronic respiratory problems, and eye and nasal irritation; and

WHEREAS, studies have shown that children and youth exposed to smoking and tobacco use have greater incidents of smoking and tobacco use when they get older.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ELSMERE AS FOLLOWS:

That a new Chapter be added to the Code of the Town of Elsmere to be titled "Prohibited Use of Tobacco Products and Smoking", to read as follows;

Section 1 Definition:

The terms used in this chapter shall be defined as follows:

"Motor vehicle" means any self-propelled device capable of being moved upon a road or other surface by which any persons or property may be transported, and shall include but not limited to automobiles, boats, trucks, motorcycles, motor scooters, jeeps or similar type four-wheel drive vehicles and snowmobiles.

"Park" means all public parks, plazas, public squares, playgrounds, activity centers, library and public buildings, designated open spaces, lands and other facilities or lands owned and operated by the Town and/or jointly owned and operated by the Town and other designated entities and shall include within any motor vehicle, trailer, concession stand or other structure located within a portion of any park.

"Person" means all persons, firms, partnerships, corporations, clubs and all associations or combinations of persons whenever acting for themselves or by an agent, employee or member.

"Smoking or Using a Tobacco Product" means the carrying or smoking of any kind of lighted pipe, cigar, cigarette or any other lighted smoking equipment as well as the use of any other tobacco products.

"Structure" means any piece of work, artificially built up or composed of parts jointed together in some definite matter

Section 2 Smoking and Tobacco Use Regulated:

No person shall smoke or use a tobacco product in any of the Town's Parks or any structure located within a park or within fifty (50) feet of any entrance or exit to any public library, public building or facility owned and operated by the Town and/or jointly owned and operated by the Town and other designated entities.

Section 3 Severability:

If any section, sentence, clause or phase of this ordinance is ruled invalid by a court of competent jurisdiction, the remaining portion of this ordinance shall remain valid and in full force and effect.

Section 4 Penalties:

Any person violating any section of this Chapter shall for a first offense be fined no less than \$50.00 and upon a second or subsequent offense shall be fined not less than \$100.00.

Section 5 Effective Date.

This ordinance shall be in full force and effective 30 days after approval.

August 11, 2011
First and Second Reading

September 08, 2011
Third and Final Reading

Deborah A. Norkavage, Mayor

Joann I. Personti, Secretary

Approved as to form:

Town Solicitor

SYNOPSIS
ORDINANCE 541

This Ordinance prohibits any "person" from smoking or using tobacco products in the Town's parklands or within fifty (50) feet of any entrance or exit to any public library, public building or facility owned and operated by the Town and/or jointly owned and operated by the Town.

Fiscal Impact:

The fiscal impact is the costs of erecting signs in each area where smoking or the use of tobacco products is prohibited which is estimated to be approximately \$2,000.00.